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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 28 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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Revision of the Commission's Rules to ) CC Docket No. 94-102  
Ensure Compatibility With Enhanced )  
911 Emergency Calling Systems )

**FURTHER COMMENTS OF  
BELL ATLANTIC NYNEX MOBILE, INC.**

Bell Atlantic NYNEX Mobile, Inc. (BANM) submits this response to the Commission's request for additional comments in this rulemaking concerning the provision of 911 emergency calling and Enhanced 911 services.<sup>1</sup> The Commission has asked interested parties to respond to ex parte submissions which were made earlier this month by the Wireless E911 Coalition, GTE Wireless and The Ad Hoc Alliance for Public Access to 911.

In its July 1996 Report and Order in this proceeding,<sup>2</sup> the Commission adopted a rule which obligates all CMRS providers to provide 911 service to non-subscribers. New Section 20.18(b) requires carriers to send to the PSAP 911 calls from all phones that transmit a "code identification," which would include phones that are not held by valid subscribers. CMRS carriers must also send 911 calls

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<sup>1</sup>"Commission Seeks Additional Comment in Wireless Enhanced 911 Rule-making Proceeding Regarding Ex Parte Presentations on Certain Technical Issues," DA 97-1502, released July 16, 1997.

<sup>2</sup>Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-102, FCC 96-264, released July 26, 1996.

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from phones that do not even transmit a code identification if the local PSAP requests. This rule was adopted despite a substantial record which established that obligating carriers to serve non-subscribers, and to comply with different obligations depending on requests from different PSAPs, created significant technical obstacles, increased liability risks, and other problems for both PSAPs and carriers. BANM and other carriers objected to the new rule nine months ago. Their petitions for reconsideration remain pending.

In its recent ex parte submission, the Wireless E911 Coalition ("Coalition") details the many technical obstacles to transmission of E911 information from non-authenticated handsets. This factual analysis fully supports the Coalition's key conclusion: "Only when a fully validated subscriber is service initialized and registered on the serving network can the phase I requirements of subscriber information and call-back number be fully met by all technologies."<sup>3</sup>

BANM provides cellular service using analog and CDMA digital technology. It agrees with and supports the Coalition's analysis. That analysis, together with similar evidence previously submitted into the record of this proceeding, compels revision of Section 20.18(b) to require service only from subscribers. Any other result cannot be squared with the record. In addition to the points made in the Coalition's submission, BANM urges the Commission to consider the following concerns with Section 20.18(b).

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<sup>3</sup>Letter from Mary E. Madigan, PCIA, on behalf of the Wireless E911 Coalition, to John Cimko, Chief, Policy Division, Wireless Telecommunications Bureau, July 10, 1997, at 1.

First, the rule as written undermines its very purpose. The goal of Section 20.18(b) is to enable PSAPs to call back the party who made the 911 call so that the PSAP can assist in providing emergency services; otherwise there is no reason to require transmission of calling party number information. That goal is, however, undermined by a rule that requires carriers to transmit calls from non-authenticated phones, because these phones can have the same number as a number of a proper subscriber. For example, if a subscriber sells his car which has an installed phone and obtains a new phone with the same number, there will be two phones capable of operating with the same number. Anti-fraud and other technology will generally not permit both phones to be used, but that technology would not block 911 calls. The PSAP which attempts to reach parties making 911 calls would have no assurance of reaching them. In this way, the provision of emergency services would be frustrated by Section 20.18(b) as written.<sup>4</sup>

Second, the rule increases the marketability of stolen and cloned phones. Wider public awareness that stolen and cloned phones can be used for free calling to PSAPs will stimulate fraud. Today, cloned phones that are sold are useful for only a short time before they are made inoperable by carrier fraud prevention technology. These sets are then usually discarded. If, however, stolen or cloned phones can be used to make 911 calls, there will be a market for them.

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<sup>4</sup>The Coalition's response to Question 5 explains why call-backs by PSAPs could be frustrated by requiring transmission of wireless 911 calls from non-authenticated handsets, regardless of the wireless technology used. BANM agrees with the Coalition's technical response on this point.

Third, by requiring carriers to transmit 911 calls from all phones, including those that do not belong to valid subscribers and are untraceable, Section 20.18(b) will provoke abusive, hoax and prank calls to PSAPs. Persons would be able to call PSAPs knowing that they cannot be identified. This would only increase the temptation to call in bomb threats directed at schools, office buildings, stadiums and other public locations. The Commission's rules should discourage such illegal behavior, not encourage it.

Fourth, by stimulating improper use of 911 service, Section 20.18(b) undercuts the Commission's recent findings and decision in the N11 rulemaking.<sup>5</sup> The Commission was there so concerned about the impact of excessive 911 calls on the ability of public safety agencies "to protect life and property" that it required carriers to set aside another number, "311," for non-emergency situations. It found that "ensuring that 911 circuits are not overburdened with non-emergency calls is also of utmost importance."<sup>6</sup> The very problem the Commission was trying to alleviate in the N11 rulemaking may be worsened by Section 20.18(b)'s requirement that CMRS providers allow free access to 911 centers by non-subscribers.

Fifth, obligating CMRS carriers to vary their transmission of 911 calls from non-subscribers, depending on the request of local PSAPs, is unworkable. BANM's experience confirms evidence in the record that many CMRS carriers have service

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<sup>5</sup>The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-51, released February 19, 1997.

<sup>6</sup>Id. at ¶ 36.

areas encompassing numerous PSAPs, and that the borders of CMRS service areas do not correspond to the jurisdictional boundaries of local public safety agencies. BANM agrees with the Coalition that there are many technical problems with requiring CMRS providers to comply with a patchwork of inconsistent 911 transmission obligations. Moreover, this requirement cannot be justified under the Commission's basic policy of consistent CMRS regulation.

Sixth, Section 20.18(b) subjects CMRS providers to more burdensome 911 obligations than landline carriers have, despite the professed objective of the rulemaking to adopt consistent obligations.<sup>7</sup> The Commission's unprecedented action in this docket, by requiring a carrier to provide service to individuals who have not subscribed to service, is not matched by any comparable obligation on landline providers. To the contrary, a party must subscribe to landline service in order to obtain 911 service.

The Ad Hoc Alliance does not confront or address any of these problems, and has no solution to them. Its suggested technical solution to the call back problem, employing the use "pseudo-MINs," is rebutted by the Coalition's submission. BANM has also confirmed that this approach is not viable from a technical standpoint. Pseudo MINs can be used for narrowly defined situations such as the provision of service to certain roamers, but attempting to rely on them for transmission of calls from non-subscribers will not work and will not solve the

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<sup>7</sup>See Notice of Proposed Rulemaking, CC Docket No. 94-102, 9 FCC Rcd 6170 (1994) at ¶ 37 (CMRS subscribers should "have the same level of access to 911 emergency services as is available to wireline customers.").

problems with the rule as it was adopted.

For these reasons, those set forth by the Wireless E911 Coalition, and those contained in the extensive record in this proceeding, the Commission must modify Section 20.18 to require the transmission of 911 calls only from subscribers.

Respectfully submitted,

BELL ATLANTIC NYNEX MOBILE, INC.

By: John T. Scott, III  
John T. Scott, III  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 624-2582

Its Attorneys

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